Serial No.: 09/746,198
Art Unit: 1325

- 7 -

Remarks

Claims 1, 6, 8, 11, 12, 14 and 16 are the independent claims of the present application.

In the Office Action, the Examiner rejected claims 1-6, 11, and 12 under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art (AAPA).

As a preliminary matter, it is not understood how art disclosed in the background section of the present application can be citable under 35 U.S.C. 102(b), which requires patenting or description in a printed publication anywhere or public use or placement on sale in the U.S. of the invention more than one year prior to the filing of the present application. Clarification is respectfully requested.

Assuming for the sake of argument that the Examiner would be able to identify another applicable subsection of 35 U.S.C. 102, it is submitted that the Applicant's own disclosure does not anticipate any of claims 1-5. In particular, claim 1 of the present application is directed to "a method of allocating a plurality of data frames amongst a plurality of basestations" by "for each of said plurality of basestations allocating a sub-set of said plurality of data frames..." [emphasis added]. The portion of the specification identified as AAPA by the Examiner (namely, page 4, lines 13-17) describes a rotational time group solution method in which control channel data frames are sub-divided into timegroups of two timeslots apiece, each timegroup being allocated to a particular basestation. That is, each data frame is in effect chopped into fragments and allocated among a number of basestations (e.g. four as described). It is submitted that this

Serial No.: 09/746,198
Art Unit: 1325   - 8 -

does not constitute "allocating a sub-set of a plurality of data frames" which would require allocation of one (or more) whole data frames. Thus it is submitted that claim 1 cannot be anticipated by the referenced description. Accordingly, claims 2-5, which depend from claim 1, also cannot be anticipated.

In claim 6, the term "contiguous portion" has been changed to "number of contiguous data frames". For the reasons set forth above in respect of claims 2 to 5, it is believed that this amendment distinguishes claim 6 over the referenced description.

With respect to claim 11, even if the portion of the specification identified by the Examiner could be classified as AAPA, which is not admitted, it is submitted that the referenced description would nevertheless fail to anticipate the method recited in claim 11. Claim 11 recites a method of allocating wireless network resources amongst a plurality of basestations comprising "... assigning to each said plurality of basestations a portion of said wireless resources, said portion comprising a group of said data frames..." [emphasis added]. As discussed above, while the referenced portion of the specification may recite allocating fragments of data frames, it does not recite allocating groups of (whole) data frames, as would be necessary to anticipate claim 11.

Claim 12 has been amended to specify that the "contiguous portion" spans a number of data frames. For the reasons stated above, it is believed that this amendment distinguishes this claim from the referenced portion of the specification.

Serial No.: 09/746,198
Art Unit: 1325
                                        - 9 -

The Examiner additionally rejected claims 8-10 and 14 under 35 U.S.C. 103(a) as being

unpatentable over Applicant's admitted prior art (AAPA). The Applicant respectfully traverses

these rejections.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First,

there must be some suggestion or motivation, either in the references themselves or in the

knowledge generally available to one of ordinary skill in the art, to modify the reference or to

combine reference teachings. Second, there must be a reasonable expectation of success.

Finally, the prior art reference (or references when combined) must teach or suggest all the claim

limitations. MPEP § 2143 (Rev. Feb. 2003).

It is respectfully submitted that the cited reference does not teach or suggest all the claim

limitations.

Claim 8 is directed to a basestation in a wireless cell comprising a processing circuit in

communication with memory storing computer readable instructions adapting the processing

circuit to "receive instructions indicating a time period during which said basestation may

communicate with mobile stations to be serviced by said basestation, said time period defined

by a contiguous set of data frames" [emphasis added]. As discussed above, the portion of the

description identified by the Examiner as AAPA does not disclose a time period during which

the basestation may communicate with mobile stations that is defined by a contiguous set of data

(whole) frames.

- 10 -

The same argument applies for claims 9 and 10.

With respect to claim 14, that claim has been amended in a similar manner to claim 6. It is believed that no *prima facie* case of obviousness has been made out for amended claim 14 due to a failure to teach or suggest the limitation of dividing the bitmap of resources into sub-bitmaps formed by a number of contiguous data frames.

Finally, the Examiner additionally objected to claims 7, 13 and 15 under 35 U.S.C. 103(a) as being unpatentable over the portion of the description considered by the Examiner to be AAPA in view of U.S. Patent No. 5,729,534 to Jokinen et al. ("Jokinen").

In view of the amendments made to claim 6, claim 12, and claim 14, on which claims 7, 13, and 15 respectively depend, it is submitted that no *prima facie* case of obviousness has been made out for these claims, again, due to a failure to teach or suggest all claim limitations. In particular, neither the referenced portion of the application nor the referenced portion of Jokinen teaches or suggests: dividing a bit map of resources in a wireless network into sub-bitmaps, each of said sub-bitmaps formed by "a number of data frames" (claim 7); for a given time period, allocating a contiguous portion of said given time period to each of a plurality of basestations, "wherein said contiguous portion spans a number of data frames" (claim 13); or a computer readable medium operable to provide instructions directing a processing circuit to divide a bitmap of resources into sub-bitmaps, "each of said sub-bitmaps formed by a number of contiguous frames" (claim 15).

Serial No.: 09/746,198
Art Unit: 1325   - 11 -

It is noted that claim 1 has been amended to clarify that each data frame comprises a plurality of time slots. Claim 3 has been amended to indicate that each data frame comprises eight timeslots.

Addressing the objections of the Examiner from page 2 of the Office Action, the Examiner has indicated that Figure 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. Applicant respectfully disagrees.

As described at page 4, lines 23 to page 5, line 9 of the application, the bitmap (200) illustrated in FIG. 2 illustrates the allocation of different timegroups (tg1, tg2, tg3, t4) within a data frame (210) to different basestations for use with traffic or data packet channels. This is to be distinguished from allocation of timegroups within a data frame to basestations for use with control channels. *The Applicant does not admit that applying the scheme of rotational timegroups to traffic or data packet channels constitutes prior art.* Accordingly, it is submitted that designation of FIG. 2 with a legend -- Prior Art-- would be improper and, in fact, misleading.

The Examiner also objected to claim 8 on the basis that computer readable instructions cannot be claimed independent of a computer readable medium and a system in which the instructions can operate. The Examiner has cited MPEP § 2104.04.1 as the basis for this objection.

The Applicant is unable to locate MPEP § 2104.04.1. As well, the Examiner's suggested

Serial No.: 09/746,198
Art Unit: 1325   - 12 -

claim language, namely, "with a memory storing computer readable medium having instructions" is not understood by the Applicant, as it is unclear how a memory can store a computer readable medium.

In any event, it is believed that claim 8 is in proper form as presently claimed. Applicant notes that memory is in fact a computer readable medium. Moreover, the "system in which the instructions can operate" is clearly disclosed in the language of claim 8 which precedes the term "computer readable instructions".

A new independent claim 16 has been added. Support for this claim may be found at page 13, lines 4 to 7 of the application.

No new matter has been added by the above amendments.

In view of the foregoing, favourable reconsideration and allowance of the application are earnestly solicited.

- 13 -

Respectfully submitted,

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